



CC Do. 93-22

Federal Communications Commission
Washington, D.C. 20554

October 24, 1994

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OCT 24 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable John Chafee
United States Senate
567 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Chafee:

This letter responds to your correspondence on behalf of Robert Wyss regarding charges on his telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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The Honorable John Chafee
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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,



Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

JOHN H. CHAFEE
RHODE ISLAND

COMMITTEE ON FINANCE
RANKING MEMBER, COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
THE SENATE ARMS CONTROL
OBSERVER GROUP
SELECT COMMITTEE
ON INTELLIGENCE

United States Senate

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4421

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SUITE 221
PROVIDENCE, RI 02903
(401) 528-5294
TDD: (401) 751-1130
TOLL FREE NUMBER
IN RHODE ISLAND
1-800-662-5188

August 10, 1994

Ms. Judith L. Harris, Director
Office of Legislative Affairs
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Ms. Harris:

Enclosed please find a copy of a letter sent to me by my constituent, Mr. Robert Wyss, relating to alleged fraudulent billing of "1-800" pay-per-call charges.

Although NYNEX has removed these charges from Mr. Wyss's account, and the telephone company no longer bills for InfoAccess, I would appreciate knowing of the FCC's views of this situation within in the larger context of the issue of regulation of these services. It is my understanding that the FCC is reviewing its rules with an eye toward proposing changes that will increase consumer protection.

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

John H. Chafee
John H. Chafee

JHC/jeb
enclosure

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00110 111111

62 Waldron Avenue
Cranston, Rhode Island 02910
July 7, 1994

Senator John Chafee
United State Senate
Washington, DC 20510

Dear Senator Chafee:

I'm writing as a citizen and constituent. I want to tell you of a problem that has created needless frustration, anger and a feeling of helplessness within my family. It involves fraudulent billing by a long distance telephone company and a campaign to evade established regulatory safeguards.

The details can be gleaned from the enclosures. But the basic problem is that according to my telephone bill, I owe NYNEX \$607.91 for 21 calls it says I made between February and April. These charges come from a billing company, InfoAccess, handling long distance 800 telephone calls for entertainment services.

These charges are false and fraudulent. Yet attempts to have them removed so far have not succeeded.

The first problems is that InfoAccess is making false billings. This company is not responsive to consumer calls. They have lied, mislead, evaded phone calls and hung up on me before I could get through to a company representative. I realize long distance services have become deregulated. Still, both Congress and the FCC have an obligation to insure fair and courteous handling of billing complaints. This has not been my experience with InfoAccess. The company's actions have created anger and frustration in our household. Further, because many of the charges stem from company's that sell explicit sexual material over the telephone, we have been inundated with mail from companies hawking pornography.

Second, even if the bill is correct - which it is not - why has the telephone industry been allowed to charge for 800 telephone calls? I am told, the customer is informed at the time of the call that there will be a charge assessed if the call continues. Nevertheless, 800 calls traditionally have been free while 900 calls traditionally have involved charges. Now, that line has been

crossed. A NYNEX telephone representative told me that the only reason this has occurred is to allow some callers to avoid blocks on 900 calls. This is an outrageous situation.

I have also raised my concerns with the FCC, my local Public Utilities Commission, the state Attorney General, NYNEX and InfoAccess. Any assistance you can provide, both in helping to protect consumers from such tactics, and to assist me, would be appreciated.

Sincerely,

Bob Wyss

Fact Sheet

4/25/94 -- The first bill from Info Access is received for \$357.79. It appears to be a bill for a series of 800 telephone numbers, with extremely high charges for each call. How can this be?

4/27/94 -- I call NYNEX. They tell me I have to discuss this bill with Info Access. But why am I getting charged for 800 telephone calls. I'm told that these are 900 telephone numbers disguised as 800 numbers. Usually these 800 numbers are called because there is a block on the telephone and someone wants to get around it. But my telephone is not blocked. The NYNEX representative confirms this. She says I will have to talk to Info Access. Good luck, she adds.

4/27/97 -- The first call is busy. On the second call, I get through to a recording. It gives me background information about Info Access and the charges. After 20 minutes, the call is answered by Nadine Hoyt of Info Access. She says these are entertainment services that had to have been dialed from my telephone. The person dials the 800 number, is told there will be a charge, and they are then given a 4 digit number to dial for the particular entertainment service. I tell her I have talked to everyone in the family, and there is absolutely no evidence that anyone made these calls. We dispute all of them. She says in that case, since Info Access is only a billing agent for these entertainment services, Info Access can agree to remove these charges from my NYNEX bill. I will still be responsible for these calls but I will be billed separately, or if necessary, through a collection agency. She tells me the charges will be removed within 4 to 6 weeks. She says I can pay the other portions of my bill and not worry about the Info Access portion. It will be removed, although it may take another billing cycle before that occurs.

4/27/94 -- After I hang up, and I review the charges more carefully, I find that some of the charges make no sense. For instance, a call was recorded at 1:37 a.m. and the bill says it lasted 2 minutes and 51 seconds. Yet the bill says a second call was made at 1:38 a.m. and lasted 2 minutes and 3 seconds.

A few days later -- I receive an envelop containing sexually explicit advertisements. For months, this mail has been coming, completely unsolicited. But now I see that it is addressed to me in the same, unique way, that my telephone bill is addressed - RL Wyss. It is now clear that these telephone charges are connected to this stream of unsolicited, unwarranted, foul and obnoxious mail.

5/24/94 -- A new NYNEX bill arrives. There are no new charges from Info Access. But the \$357.79 charge remain and is now posted as

being outstanding.

6/2/94 -- I receive a reminder from NYNEX that I have an outstanding balance for \$357.79 and a portion must be paid within 10 days.

6/6/94 -- I talk to Andrea at NYNEX. I inform her that Info Access assured me that the \$357.79 in charges would be removed within 6 weeks. She agrees that NYNEX will not press for quick payment of these charges. If they are still there after 30 days, NYNEX will get back to us.

6/23/94 -- Another NYNEX bill. Not only does it include the \$357.79 in old charges, but now additional calls are listed with charges tallying \$249.40. The total now owed to Info Access is \$607.19. I again check with family members. No one made any of these calls. Further, the same billing discrepancies involving the length of the call, and the time it was made, appear.

6/27/94 -- I try and call Info Access. The first 5 times the phone is busy. The sixth time I get through. It is 3:35 p.m. I hear recorded messages. At 4:08 p.m. a new recording comes on saying "We are experiencing delays because of heavy traffic." The phone clicks dead. I continue to hold the receiver to make sure they have not hung up on me. At 4:10 p.m. I hang up.

6/28/94 -- At 8:20 p.m. I call Info Access. I listen to recordings until 8:40 p.m. when Maria Cook comes on the line. I tell her that I was told by Nadine Hoyt on April 27 that the previous charges would be removed. I want those charges removed, plus these new ones. Maria Cook says "There has been a misunderstanding." Info Access will not remove the charges. They will continue to remain on my local telephone bill. Info Access will contact the various entertainment services and tell them we are disputing their charges. She says these entertainment services must contact us in 60 to 90 days. She says that means we will hear from them by July 27. I inform her that this is unacceptable. I tell her that the charges are clearly wrong because some of the time sequences make no sense. She disputes this, and says they do make sense. She also suggests that if no one in our family made the calls, we should contact the telephone company and check to see if someone is somehow illegally gaining access to our telephone line. I tell her that I want to put her, and Info Access on notice, that I am filing complaints with the appropriate regulatory authorities because Info Access has made fraudulent charges to my telephone bill, it has provided misinformation, and it has engaged in tactics to evade responding to my inquiries, including hanging up on me. Maria Cook tries to repeatedly interrupt me while I give this information. I hang up.

6/29/94, 2:45 p.m. -- I talk to Lisa D at NYNEX. She says NYNEX can only do two things. It can and will contact Info Access and inform them that I am disputing the bill. Info Access must respond within 30 days. They may adjust or eliminate the bill. However,

if they stand by the bill, then NYNEX has no choice but to continue to press for payment. She also says the repair division will check to see if there is a crossed line and someone is gaining access to our line.

6/29/94 3:30 p.m. -- I call the Rhode Island Attorney General consumer division. They report they have received numerous complaints about Info Access. They have limited jurisdiction, but they are logging all complaints about Info Access. They also say they will send me a complaint form and they ask that I fill it out and return it. They urge me to call NYNEX and the Rhode Island Public Utility Commission Consumer Affairs Office.

6/29/94 3:45 p.m. -- I call the Rhode Island PUC Consumer Affairs office. The woman answering says I should call NYNEX about any complaints about Info Access. I said I have already done that, but the Attorney General's office suggested I call the PUC also. She says they should not have done that. The PUC has no jurisdiction, only the Federal Communication Commission. My complaint is with NYNEX.

6/29/94 3:50 p.m. -- I call Anthony Pagano, chief of the RIPUC Consumer Affairs Office. I know Mr. Pagano through professional contacts. I tell Mr. Pagano I am calling as a private citizen. I am outraged that the PUC at the very least is not keeping a log of complaints involving Info Access. He says that his office has been inundated with complaints about Info Access. He says NYNEX has agreed to stop billing for Info Access, and to adjust any current charges, and that is why callers are being referred to NYNEX. I tell him that is not what NYNEX, or the representative in his office, told me. He says he will check.

6/29/94 4:15 p.m. -- The NYNEX repair office calls to report they checked the phone line, and it is not crossed.

62 Waldron Avenue
Cranston, Rhode Island 02910
July 7, 1994

Craig Dennis
Info Access
527 Third Avenue
PO Box 327
New York, NY 10016

Dear Sir:

I am strongly protesting your posting of 21 charges for 800 telephone services totaling \$607.19 and I demand that you remove them from my NYNEX telephone bill. I have consulted with the three other family members who live here and all report that they did not make any of these telephone calls.

Here are some other facts to consider:

1) Everyone was either asleep or not at home when these calls were made.

Friday Feb. 11, 10:22 a.m. - No one home. Everyone was either at work or at school.

Monday Feb. 14 2:34 p.m. to 2:44 p.m. - No one home.

Wednesday, Feb. 16, 4:29 p.m. - No one home. Three of us were being driven by the fourth family member to the Providence, R.I. airport to catch USAir Flight 351, departing at 5:55 p.m.

Thursday, Feb. 17 2:05 a.m. - One person home, asleep.

Thursday, March 3, 11:07 p.m. - All four family members home - asleep.

Wednesday, March 23, 10:09 p.m. to 10:27 p.m. - All four family members home - asleep.

Friday, April 8, 12:15 a.m. - All four family members home - asleep.

2) The charges are not only false, in many cases they are technically impossible.

Thursday, Feb. 17, a call was made at 1:37 lasting 2 minutes and 51 seconds. The next call was made at 1:38. Time does not work like this.

Other calls were made at 1:40, lasting 1:38; 1:41, lasting 1:24, 1:42, lasting 1:51, and 1:42, lasting 3:09. Do the math, this is physically impossible.

Wednesday, March 23, a call was made at 10:11 p.m. lasting 9 minutes and 18 seconds. The next call was posted at 10:11 p.m., it lasted 1:44. Another call at 10:13 p.m., lasting 1:41.

3) InfoAccess provides misleading information to consumers.

On April 27, 1994 a representative of your company, Nadine Hoyt, informed me that all charges would be removed from my telephone bill and further communication would be made between me and the telephone entertainment providers. She said the charges WOULD BE REMOVED IN FOUR TO SIX WEEKS. It never happened.

On June 28, 1994, Maria Cook, a representative of your company, stated there had been a misunderstanding and that Info Access had no intentions of removing the charges. If this is true, I was given false information.

4) InfoAccess uses an automatic answering system designed to evade providing information which hangs up on callers before they reach a company representative.

On April 27, 1994 I was on hold for 20 minutes before reaching a company representative.

On June 27, at 3:35 p.m. I call InfoAccess. After 28 minutes, the system disconnects me.

On June 28, I was on hold for about 20 minutes.

For all of the above reasons, I demand that you remove the charges that have already been assessed against me, along with any future fraudulent billings. You should also be aware that I am making this information known to NYNEX, the Rhode Island Public Utilities Commission Chairman and staff, the Rhode Island Attorney General, the five members of the Federal Communications Commission and their staff and my elected Congressional representatives.

I await your response.

Sincerely,

Robert L. Wyss



INFOACCS PAGE 1 OF 1

02910
CCR16

IF YOU HAVE QUESTIONS ABOUT
THE INFO ACCESS, INCORPORATED
PORTION OF YOUR BILL PLEASE
CALL 1 800 645-8630

ACCOUNT NO. **401 467-4389 314 005 6 R68**

BILLING PERIOD: MARCH 17-APRIL 16, 1994

Itemization of Account**New Charges****► Calling Services****• ITEMIZED CALLS**

NO.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN:SEC	AMOUNT
1.	FEB 11	1022AM	AMERCALL P	AD 800 374-8100	DD	6:07	29.70
2.	FEB 14	234PM	AMERCALL P	AD 800 374-8100	DD	10:53	49.50
3.	FEB 14	244PM	AMERCALL P	AD 800 374-8100	DD	11:15	54.45
4.	FEB 18	429PM	AMERCALL P	AD 800 374-8100	DD	10:48	49.50
5.	FEB 17	134AM	AMERCALL P	AD 800 876-5347	ND	3:10	14.85
6.	FEB 17	137AM	DIR ASST CHG	800 555-1212	ND	2:51	15.80
7.	FEB 17	138AM	TALKNET P	AT 800 876-5347	ND	2:03	9.90
8.	FEB 17	140AM	DISCCALL P	DI 800 876-5347	ND	1:38	4.95
9.	FEB 17	141AM	TELECALL P	AG 800 876-5347	ND	1:24	4.95
10.	FEB 17	142AM	DIR ASST CHG	800 555-1212	ND	1:51	3.95
11.	FEB 17	142AM	TALKNET P	AT 800 876-5347	ND	3:09	14.85
12.	FEB 17	205AM	DISCCALL P	DI 800 925-1357	ND	11:12	54.45

* DD DAY DIAL

ND NIGHT/WEEKEND DIAL

TOTAL OF CALLING SERVICES **386.85****► Rhode Island Gross Receipts Tax Surcharge (6.00%)** **18.41****► Total Tax—FEDERAL** 9.76 **STATE** 22.77 **32.53****TOTAL NEW CHARGES FOR INFO ACCESS, INCORPORATED** **357.79**

This portion of your bill is provided as a service to INFOACCS.
There is no connection between NYNEX and INFOACCS.



INFOACCS PAGE 1 OF 1

02910
CCR18

IF YOU HAVE QUESTIONS ABOUT
THE INFO ACCESS, INCORPORATED
PORTION OF YOUR BILL PLEASE
CALL 1 800 645-8830

ACCOUNT NO. **401 467-4389 314 005 6 R68**

BILLING PERIOD: MAY 17-JUNE 16, 1994

Itemization of Account**New Charges****► Calling Services****• ITEMIZED CALLS**

NO.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN:SEC	AMOUNT
1.	MAR 3	1107PM	COMMFONE P	AM 800 374-8100	ND	11:01	54.45
2.	MAR 23	1008PM	BAL DUE M	AY 800 374-8100	ED	1:32	28.50
3.	MAR 23	1011PM	NETWORK C	LS 800 374-8100	ED	9:18	30.00
4.	MAR 23	1011PM	AMERCALL P	AD 800 374-8100	ED	1:44	4.95
5.	MAR 23	1013PM	AMERCALL P	AD 800 374-8100	ED	1:41	4.95
6.	MAR 23	1014PM	DIR ASST CHG	800 586-1212	ED	1:45	11.85
7.	MAR 23	1017PM	TALKNET P	AT 800 374-8100	ED	6:15	29.70
8.	MAR 23	1022PM	DISCCALL P	DI 800 374-8100	ED	9:18	44.55
9.	APR 8	1215AM	COMMFONE P	AM 800 237-4409	ND	1:54	4.95

* ED EVENING DIAL

ND NIGHT/WEEKEND DIAL

TOTAL OF CALLING SERVICES **213.90****► Rhode Island Gross Receipts Tax Surcharge (6.00%) 12.83****► Total Tax—FEDERAL 6.80 STATE 15.87 22.67****TOTAL NEW CHARGES FOR INFO ACCESS, INCORPORATED 249.40**

This portion of your bill is provided as a service to INFOACCS.
There is no connection between NYNEX and INFOACCS.



State of Rhode Island and Providence Plantations

DEPARTMENT OF THE ATTORNEY GENERAL

72 Pine Street, Providence, RI 02903

(401) 274-4400

Jeffrey B. Pine, Attorney General

FOR IMMEDIATE RELEASE
June 28, 1994

CONTACT: Stephen White
(401) 274-4400 ext. 2336

**ATTORNEY GENERAL WARNS CONSUMERS
ABOUT NEW YORK BASED PHONE SERVICE COMPANY**

Providence, RI--The Rhode Island Attorney General's Consumer Protection Unit is advising Rhode Island Consumers to be on the lookout for improper billings on their monthly phone bills.

Here's the Problem

Some Rhode Island consumers have contacted the Rhode Island Attorney General's Consumer Protection Unit complaining that they are being improperly billed for calls made to 1-800 phone service provided by Info Access. The complaints vary.

In some instances, consumers are allegedly being charged for simultaneous calls emanating from the same phone. For example, a consumer was billed for making a call to a 1-800 number at 4:35 pm for a 1 minute 26 second phone call on April 5, 1994. The consumer was also billed for a call made from the same phone at the same time (4:35) on the same day for 4 minutes 42 seconds (The phone calls coming from the same phone at overlapping times).

Other consumers have complained that they are not advised nor are they aware that the 1-800 number is a toll, or billable call. Other consumers are claiming that they are being billed for calls they never made.

(more)

Consumer Warning!

Page 2 of 2:

**Attorney General's Office Advises Consumers
to double check billings**

"Consumers should double check their billings since January of 1994. They should pay particular attention to billings from a Info Access," Christine Jabour, an Assistant Attorney General and Chief of the Attorney General's Consumer Protection Unit said. "If they dispute the billings or question the calls, they should first attempt to contact Info Access at 1-800-645-8830 (this call is free). If they are unable to contact Info Access or resolve the dispute with Info Access, they should call NYNEX who has acted as the billing agent for Info Access in the cases brought to the attention of the Attorney General's office," Jabour added.

"We have received more than 20 complaints from Rhode Island consumers in less than five (5) days. We believe that Info Access is based in New York City. We have contacted the New York Department of Attorney General and they have indicated that they are receiving similiar complaints from New York consumers regarding Info Access billings," Assistant Attorney General Jabour said.